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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,130	10/16/2003	Sean Thomas Clark	9323M	7351

27752 7590 07/28/2005

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EXAMINER

SUHOL, DMITRY

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/687,130

Applicant(s)

CLARK ET AL.

Examiner

Dmitry Suhol

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)          |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. <u>072005</u>  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-5, 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Gibson et al '488. Gibson discloses an educational structure containing all of the elements of the claims including a structure divided into a first and second areas (figures 1-4, cab section 2 and toy chest area 9) as required by claim 1, a first three dimensional interactive aide (steering wheel 4) as required by claim 1, a second three dimensional interactive aide (toys and books as described in col. 4, lines 56-58) as required by claim 1. A first interactive aide located in the first area and a second interactive aide located in the second area, as required by claim 1, is described in col. 4, lines 29-31 and lines 56-58, respectively. With respect to the two different stages of development, as broadly required by claim 1, Gibson's interactive aides encompass such features since to turn the steering wheel a user would have to be developing his/her muscles and coordination (considered to be part of a second stage of

development), while to view the contents of a book the user would have to be developing his/her vision (considered to be part of first stage of development). A first and second educational aide providing information regarding a first aspect of child development and a second aspect of child development, respectively, where the first and second aspects are chosen from the group of physical development, motor skills, emotional development, sensory development and coordination, as required by claim 4, are described in col. 4, lines 29-31 and lines 56-58 where the steering wheel provides information regarding motor skills (i.e. when a child plays with the steering wheel it provides information of how developed the child's motor skills are), while the books provide information regarding sensory development (i.e. when a child plays with the books it provides information of the level of the child's visual senses). A structure being movable, as required by claim 5, is shown in figure 1, where it is considered that since the structure is not attached to the floor or ground in any manner it is movable. The structure comprising a trailer, as required by claim 8, is shown in figures 1-4. The structure being self contained, as required by claim 9, is shown in figures 1-4. The structure being divided into at least four areas, as required by claim 10, is shown in figure 1, where the first area is the cab (2), the second area is the toy chest (9), the third area is the rear section including the desk (12) and the fourth area is the writing teaching station (18).

Claim 12 is rejected under 35 U.S.C. 102(e) as being anticipated by Stamm '975. Stamm discloses a system and method facilitating early childhood brain development

which utilizes a number of educational aides (102) containing a number of activity items which relate to a specific stage of development (infant, baby, toddler, preschooler).

Stamm further teaches that his educational aides are comprised of indicia which communicates the correspondence of the educational aides to the specific stage of development (figures 5-8).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4-7, 9, 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoon '495. Yoon discloses an educational structure containing all of the elements of the claims including a structure divided into a first and second areas (figures 9 and 10, tent and pocket 13, where the first area is read onto the pocket formed by the back section 15 and the front section 17 and the second area is read onto the sub-pocket assembly 40) as required by claim 1, a first three dimensional interactive aide (learning board 11) as required by claim 1, a second three dimensional interactive aide (balls 44) as required by claim 1. A first interactive aide located in the first area and a second interactive aide located in the second area, as required by claim 1, is shown in figure 9. A first and second educational aide providing information regarding a first aspect of child development and a second aspect of child development, respectively, where the

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first and second aspects are chosen from the group of physical development, motor skills, emotional development, sensory development and coordination, as required by claim 4, are described in col. 2, lines 52-60 and col. 4, lines 51-64 where the balls provide information regarding motor skills (i.e. when a child plays with the balls it provides information of how developed the child's motor skills are), while the indicia of the learning boards provide information regarding sensory development (i.e. when a child plays with the learning boards it provides information of the level of the child's visual senses). A structure being movable, as required by claim 5, is described in cols. 3-4, lines 62+ and lines 1-4, respectively. The structure capable of being placed in a portable configuration, as required by claim 6, is described in cols. 3-4, lines 62+ and lines 1-4, respectively. A structure being a tent, as required by claim 7, is shown in figure 1. The structure being self contained, as required by claim 9, is shown in figure 1. An educational apparatus comprising two or more three dimensional interactive educational aides, as required by claim 12, is shown in figure 9 as board 11 and balls 44. The three dimensional educational aides being related by common labeling, indicia or other insignia, as required by claim 12, is described in col. 2, lines 52-60.

With respect to the two different stages of development, as broadly required by claim 1, it would have been obvious to one having ordinary skill in the art, at the time of the claimed invention, to have included educational aides directed to different stage of development of children since Yoon clearly teaches that the three-dimensional interactive aides of his invention can be customized to children of a variety of ages and variety of educational needs (col. 4, lines 20-26 and lines 60-64).

Claims 1, 4, 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stamm et al '975 in view of "Broadlands Community Forums", hereafter Broadlands. Stamm, as stated above, discloses interactive educational aides (102) directed to different stages of development (figure 4A-4B, infant, baby, toddler, preschooler) which when used by an adult user inherently provide a demonstration of an activity simulating the experience of a user child of the aide, as required by claim 1.

Stamm lacks the teaching of a structure divided into two or more areas (4 areas as required by claim 10) as required by claim 1. However Stamm clearly teaches that his system may be used in a daycare center (considered a self contained structure as required by claim 9) (paragraph 0018), while Broadlands provides a teaching that daycare centers often split their children into a number of rooms (specifically 4 rooms) according to age (top of page 4) and since Stamm clearly show a number of stages (figures 4A-4B) related to a child's age (infant, baby, toddler, preschooler), it would have been obvious to utilize the system of Stamm in the daycare rooms of Broadlands for the purpose of developing a child's brain.

Regarding the limitations of claim 4, Stamm teaches that his system is directed to various aspects encompassed by claim 4 in figures 4A and 4B.

Regarding claim 11, the babies prior to being able to crawl or walk are considered to be infants, babies who can crawl and walk for short distances are considered to be baby's, children who are able to walk and are learning to run are

considered to be toddlers, while children that are able to run and are able to at least partially dress themselves are considered to be preschoolers (see figure 4A-4B).

### ***Response to Arguments***

Applicant's arguments filed July 6<sup>th</sup>, 2005 have been fully considered but they are not persuasive. Applicants argue that Gibson does not teach a first and second simulations directed to different stages of child development as claimed and disclosed in the applicants specification. In response, it is the examiners position that, as broadly claimed by the applicants Gibson fully encompasses the claims as stated above. The examiner further points out that examples relied upon by the applicants found in the specification are not currently being claimed and although the claims are read in light of the specification importing limitation from the specification to the claims is inappropriate. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicants further argue that Yoon fails to disclose the claimed aides which demonstrate and activity which simulates the experience of a child in a given stage of development. In response the examiner once again points out that as broadly claimed Yoon aides read on all of the claimed limitations.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 571-272-4430. The examiner can normally be reached on Mon - Friday 8:30am-5:00pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Dmitry Suhol  
Examiner  
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